



Legislative Council Staff

Research Note

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Bill Number

Senate Bill 17-087

Sponsors

*Senator Aguilar
(None)*

Short Title

*Determinate Sentence For
Indeterminate Sex Offense*

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Status

This research note reflects the final version of the bill, which was postponed indefinitely by the Senate Judiciary Committee on February 22, 2017.

Background

In 1998, the legislature established the Colorado Sex Offender Lifetime Supervision Act of 1998, under which individuals who commit sex offenses could receive treatment and supervision for the rest of their lives. In the act's legislative declaration, the General Assembly stated that the majority of individuals who commit these crimes are likely to commit similar crimes in the future if they are not supervised. The highlights of the act's provisions are indeterminate sentencing for certain sex offenders, treatment for sex offenders, and intensive supervision of sex offenders in the community.

Indeterminate sentencing. Under the act, certain sex offenses are subject to special sentencing guidelines. These offenses include:

- sexual assault;
- felony unlawful sexual contact;
- sexual assault on a child;
- sexual assault on a child by one in a position of trust;
- aggravated sexual assault on a client by a psychotherapist;
- enticement of a child;
- incest;
- aggravated incest;
- patronizing a prostituted child;

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- class 4 felony Internet luring of a child;
- Internet sexual exploitation of a child; and
- sexual assaults that include sexual intrusion or sexual penetration when the victim is less than 12 years old and the offender is at least 18 years old and at least ten years older than the victim.

The special sentencing guidelines for these offenses include the following:

- courts may sentence sex offenders to an indeterminate prison term of at least the minimum of the presumptive range for the offense and a maximum of the offender's natural life;
- individuals who commit offenses that constitute a crime of violence may be sentenced to an indeterminate prison term of at least the midpoint of the presumptive range for the specific offense and a maximum of the offender's natural life;
- HIV-positive individuals, who were aware of their HIV-positive status prior to committing a sex offense and who transmitted the HIV infectious agent during the commission of a sexual offense involving penetration, may be sentenced to an indeterminate prison sentence of at least the upper limit of the presumptive range for the specific offense and a maximum of the offender's natural life;
- habitual sex offenders against children may be sentenced to an indeterminate prison sentence of at least three times the upper limit of the presumptive range for the specific offense and a maximum of the offender's natural life; and
- a special sentencing scheme for those who are older than 18 and commit certain sexual assaults that include sexual intrusion or sexual penetration of a victim who is less than 12 years old and at least ten years younger than the offender.

Senate Action

Senate Judiciary Committee (February 22, 2017). At the hearing, the committee heard neutral testimony on the bill from representatives of the Colorado Sex Offender Management Board. The committee heard testimony in favor of the bill from representatives of the Colorado Criminal Defense Bar, the Coalition for Sexual Offense Restoration, and the Office of the State Public Defender; as well as private citizens. The committee heard testimony in opposition to the bill from representatives of the First Judicial District Attorney's Office, Colorado District Attorneys' Council, the Twentieth Judicial District Attorney's Office, the Colorado Attorney General's Office, and the Colorado Organization for Victim Assistance. The bill was postponed indefinitely by the committee.

Relevant Research

Legislative Council Staff, *Laws Governing Sex Offenders in Colorado*, December 2016: <http://leg.colorado.gov/publications/laws-governing-sex-offenders-colorado-2016>.